

January 26, 2018

Ann Bailey
Branch Chief
ENERGY STAR Products
Environmental Protection Agency
Office of Air and Radiation
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Ms. Bailey:

Thank you for the opportunity to offer comments and suggestions in response to the draft Standard Operating Procedures (SOPs) proposed in your correspondence under date of November 20, 2017. We appreciate the ability to share our collective thoughts about ways that the ENERGY STAR program can be improved through increased transparency, predictability, and consistency across the various program platforms.¹ We believe the best approach to ensuring the long-term viability and integrity of the ENERGY STAR program is to engage, fully, the partners and stakeholders in a meaningful and regular way as regular activities such as updating specifications as well as plans and changes to the program may be considered. You will note that signatories to this letter may also sign other comments that may provide more specific ideas that impact their product categories.

Our goal in proffering these comments is to strengthen a program that has a quarter-century history of delivering benefits to consumers, including homeowners and businesses. ENERGY STAR and its network of over 16,000 partners have delivered over \$430 billion in utility bill savings since the program was established in 1992. Today, ENERGY STAR provides important information to consumers purchasing energy-efficient products; helps homeowners manage their energy consumption; creates recognizable and trusted differentiation for manufacturers of products across 75 different categories; represents a consistent indicator of high energy efficiency leveraged by states, local governments, and over 700 utilities in energy efficiency programs; and offers an invaluable platform for gathering and analyzing energy performance data in the commercial and governmental building sectors. All of us, as signatories to this letter, support the ENERGY STAR program and look forward to working with the staff at EPA as well as those involved at DOE to continue to promote, at a federal level, cost-effective energy savings for consumers.

¹ Although not addressed specifically by EPA's draft SOPs, we note that there are significant penalties for companies who participate in the ENERGY STAR program and have a product disqualified from the program because it does not meet the qualification criteria. Not only does EPA require that the product be removed from the ENERGY STAR qualified products list, but lawyers for plaintiffs have targeted companies whose products are disqualified in costly class action lawsuits. We appreciate that EPA has made it clear that it does not intend the ENERGY STAR program to be used for that purpose and recommend that EPA address this matter.

Standard Operating Procedures

ENERGY STAR should maintain SOPs to provide stakeholders with the certainty and predictability needed for participation in the program. We believe that the SOPs outlined in the November correspondence are responsive to industry needs and input; however, such procedures are only as impactful if they are followed by agency personnel. We recommend that EPA put in place procedures to ensure consistent application of SOPs across all of the various platforms of the program.

Notice and Comment Periods

ENERGY STAR should make every effort to provide advance notice to the public before initiating the process outlined in the SOP to develop new or modify existing specifications and program requirements. We recommend that ENERGY STAR publish in the Federal Register:

- an annual notice of the product development work plan(s),
- quarterly updates to development activity planned or underway, and
- notice of intent whenever a new or revised specification is initiated.

We encourage ENERGY STAR to make full use of online dockets (i.e., Regulations.gov) to ensure the broadest public availability of information.

We appreciate the need for predictable and consistent comment periods, which should generally be 30 days (or four weeks), for all significant proposals. We note that shorter comment periods may be appropriate in specific cases, particularly where impacted industry participants request a shorter time-frame.

Data Transparency

We appreciate EPA's acknowledgement of the need for transparency in the specification-setting process and generally across the program. Whenever possible, we encourage EPA to make all supporting data, anonymized to protect confidential and sensitive information, available to the public when a comment period opens.

Use of Federal and Industry Standards

For products covered under the Department of Energy (DOE) appliance and equipment standards program, ENERGY STAR should align relevant definitions and test methods to those of DOE. When a product is covered by a federal minimum efficiency standard, ENERGY STAR should use the associated test procedure. For other products and metrics where no federal regulations apply but industry test methods have been developed as voluntary consensus standards, EPA should prioritize the use of such methods. When data is submitted to DOE by manufacturers to demonstrate compliance with minimum efficiency standards, ENERGY STAR should make use of that data rather than asking for different and/or duplicative information.

Interagency Memorandum of Understanding

We recommend ENERGY STAR establish a schedule for seeking stakeholder comments and feedback on management of the program by the involved agencies (EPA and DOE) to ensure effective and transparent coordination between the agencies and ensure that ENERGY STAR is best-aligned with related federal programs and rules to facilitate strong industry engagement and to avoid burdensome or duplicative reporting and other requirements. We note that the current DOE and EPA interagency Memorandum of Understanding (MOU) was put in place eight years ago and has not to our knowledge since been updated. Further, there was not direct stakeholder engagement in the crafting of that MOU. We believe that the agencies should review the existing MOU, with stakeholders, to determine whether changes may be warranted to accommodate changes in technology or market conditions; protect the integrity of the program; improve transparency and consumer confidence; facilitate greater engagement; and, if so, collect feedback on potential changes for interagency consideration.

Thank you for your consideration. We are committed to the success of ENERGY STAR and will do our best to support your efforts to improve the program.

Sincerely,

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and Government Relations
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Kateri Callahan
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